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1 Thomas G.F. Del Beccaro (California Bar #132351)
 2 **Del Beccaro, Hornsby & Blake**
 3 800 So. Broadway, Suite 301
 4 Walnut Creek, California 94596
 5 Telephone: (925) 280-4487
 6 Facsimile: (925) 284-2015

7 Robert R. Pohls (California Bar #131021)
 8 Stacey L. Leask (California Bar #233281)
 9 **Pohls & Associates**
 10 12657 Alcosta Boulevard, Suite 150
 11 San Ramon, California 94583
 12 Telephone: (925) 973-0300
 13 Facsimile: (925) 973-0330

14 Attorneys for Plaintiff **Ernest C. Wheeler**

15 JOSEPH P. RUSSONIELLO (CABN 44332)
 16 United States Attorney
 17 JOANN M. SWANSON (CABN 88143)
 18 Chief, Civil Division
 19 NEILL T. TSENG (CABN 220348)
 20 Assistant United States Attorney

21 450 Golden Gate Avenue, Box 36055
 22 San Francisco, California 94102-3495
 23 Telephone: (415) 436-7155
 24 FAX: (415) 436-6748
 25 neill.tseng@usdoj.gov

26 Attorneys for Defendant

27 UNITED STATES DISTRICT COURT

28 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

29 ERNEST C. WHEELER,

30 Plaintiff,

31 v.

32 MICHAEL CHERTOFF, Secretary,
 33 Department of Homeland Security, Federal
 34 Emergency Management Agency

35 Defendant.

No. C 08-01738 SBA

**STIPULATION AND [PROPOSED]
 PROTECTIVE ORDER RE:
 CONFIDENTIALITY**

1 Subject to the approval of this Court, the parties hereby stipulate to the following
 2 protective order:

3 The parties agree that entry of the following protective order is necessary in order to: (1)
 4 facilitate discovery of information without document by document controversy concerning
 5 confidentiality; (2) protect current and former employees of the defendant from undue
 6 annoyance, embarrassment, oppression, burden and expense resulting from public disclosure or
 7 use for purposes other than this litigation of confidential information that the parties will disclose
 8 in discovery; and (3) avoid violation of the Privacy Act as codified at 5 U.S.C. §552a. The
 9 parties therefore request that the Court enter the following protective order pursuant to Federal
 10 Rule of Civil Procedure 26(c).
 11
 12

13 **STIPULATED ORDER**

14 All documents obtained from the defendant in response to discovery requests made under
 15 the Federal Rules of Civil Procedure, or made pursuant to any disclosure requirement, that are
 16 contained within any EEO file relating to an EEO complaint against Judith Reilly by Georgetta
 17 Law, Harold Pashon or Richard Rodenbaugh, shall be subject to the following restrictions:
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19 1. All information shall be used only for the purpose of this litigation and not for
 20 any other purpose;
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22 2. No information shall be disclosed to anyone other than (a) the attorneys employed
 23 by plaintiff and its staff; (b) the parties; (c) actual or potential third-party witnesses; (d) outside
 24 experts or consultants retained by any of the parties or their counsel for purposes of this
 25 litigation; (e) the Court in further proceedings herein; (f) stenographic deposition reporters; and
 26 (g) other persons upon whom the parties mutually agree in writing;
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28 3. There shall be no reproduction of the documents, except that, as required by the

1 litigation, copies, excerpts, or summaries may be shown to those authorized in Paragraph 2;

2 4. Except as otherwise provided in Paragraphs 2 and 3, all documents shall remain
3 in the custody of the plaintiff's attorneys of record during the pendency of the litigation;
4

5 5. Upon final determination of this litigation, including all appeals, all documents,
6 including copies, extracts or summaries thereof, shall be returned to defendant's counsel.

7 Notwithstanding this paragraph, however, the plaintiff's attorneys may retain one copy of each
8 pleading and other document filed with the Court that contains any documents covered by this
9 Order; and
10

11 6. This Stipulation and Protective Order is without prejudice to the right of any party
12 to seek modification of it from the Court. It shall remain in effect until such time as it is
13 modified, amended or rescinded by the Court and shall survive termination of this action. The
14 Court shall have continuing jurisdiction to modify, amend, or rescind this Stipulation and
15 Protective Order notwithstanding the termination of this action.
16

17 Respectfully submitted,

18 ***DEL BECCARO, HORNSBY & BLAKE***
19 ***POHLS & ASSOCIATES***

20 Dated: February 6, 2009

21 By: /s/

22 Thomas G. Del Beccaro
Attorneys for Plaintiff **Ernest C. Wheeler**

23 **JOSEPH P. RUSSONIELLO**
24 United States Attorney

25 Dated: February 6, 2009

26 By: /s/

27 **NEILL T. TSENG**
Assistant United States Attorney
Attorneys for Defendant
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1 PURSUANT TO STIPULATION, IT IS SO ORDERED:

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3 DATED: 2/11/09

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HONORABLE SAUNDRA B. ARMSTRONG
UNITED STATES DISTRICT JUDGE

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6 Magistrate
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